

OCT 23 2009

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

MICHAEL STEWART,

Plaintiff - Appellant,

v.

A. CALDERON; et al.,

Defendants - Appellees.

No. 07-16862

D.C. No. CV-06-01464-AWI/LJO

MEMORANDUM^{*}

Appeal from the United States District Court
for the Eastern District of California
Anthony W. Ishii, Chief District Judge, Presiding

Submitted October 13, 2009^{**}

Before: B. FLETCHER, LEAVY, and RYMER, Circuit Judges.

Michael Stewart, a California state prisoner, appeals pro se from the district court's judgment dismissing his 42 U.S.C. § 1983 action for failure to exhaust administrative remedies pursuant to the Prison Litigation Reform Act, 42 U.S.C.

^{*} This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

^{**} The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

§ 1997e(a). We have jurisdiction under 28 U.S.C. § 1291. We review de novo, *Resnick v. Hayes*, 213F.3d 443, 447 (9th Cir. 2000), and we affirm.

The district court properly dismissed the action because Stewart’s failure to submit an inmate grievance within the 15-working-day deadline did not constitute proper exhaustion. *See Woodford v. Ngo*, 548 U.S. 81, 83-84, 95 (2006) (holding that “proper exhaustion” under § 1997 is mandatory and cannot be satisfied “by filing an untimely or otherwise procedurally defective administrative grievance”); *see also* Cal. Code Regs. tit. 15, § 3084.6(c) (providing that an inmate must submit an administrative appeal within 15 working days of the event or decision being appealed).

AFFIRMED.